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S E C R E T SECTION 01 OF 03 YEREVAN 000199

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STATE FOR EUR/CARC, NSC FOR MARIA GERMANO, JUSTICE FOR CARL
ALEXANDRE

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SUBJECT: ARMENIAN SUPREME ALLEGES FIXED DECISION AGAINST LTP

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Classified By: Charge d'Affaires Joseph Pennington, reasons 1.4 (b/d).

SUMMARY

11. (S) Late on March 6, Valery Poghossian, one of Armenia's nine Constitutional Court justices, secretly approached the Embassy for an urgent meeting at his home. Poghossian alleged to Emboffs that President Kocharian has fixed the court's upcoming March 8 decision to decide against the complaint by ex-president Levon Ter-Petrossian alleging vote fraud in the disputed February 19 presidential election. Poghossian said he personally had been pressured by the Presidency, and alleged some of his colleagues had as well. The justice said "absolute tyranny" now prevailed in Armenia, and fretted the fixed decision could have "unpredictable consequences" for the country. He warned that if the international community allowed the authorities off the hook after the fixed decision, it would do irreversible damage to Armenia, and doom any fading hopes the country still has for democracy. END SUMMARY.

FIXED DECISION

12. (S) Constitutional Court Justice Valery Poghossian secretly approached the Embassy late on March 6 to request an

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urgent meeting at his home. Poghossian is one of nine justices who sit on Armenia's Constitutional Court, and was one of the court's first appointments in 1996. The court is currently hearing a case brought by ex-president Levon Ter-Petrossian (LTP) requesting the invalidation of the February 19 presidential election result. LTP claims that the election results are fraudulent, and that a new election should be held. LTP finished second in the disputed presidential election, gaining 21.5 percent of the vote, while Prime Minister and President-elect Serzh Sargsian tallied 52.8 percent -- enough to avoid a second-round run-off. The disputed results triggered an 11-day protest by LTP supporters that ended in bloody clashes with security forces on March 1-2, and the declaration of a state of emergency by current president Robert Kocharian.

¶3. (S) The frail and grim-looking Poghosian apologized to Emboffs for approaching the embassy, but said he had nowhere else to go with his concerns. He explained that he recached out secretly to Embassy officials because "I know what America stands for." He alleged that President Robert Kocharian has fixed the upcoming decision of the Constitutional Court, set for March 8, that will rule against LTP's election result complaint. Late on March 4, on the eve of the court's hearing of LTP's complaint, Poghosian said he was contacted by phone and summoned to the Presidency by someone speaking on behalf of the president's chief of staff.

Initially taken back by the call, he said he laughed at the caller before refusing the summoning. He then ignored repeated calls placed to his office that evening.

¶4. (S) Poghosian alleged that at least three of his colleagues answered similar summons to the presidency earlier on March 4, though he cannot prove it. He said he obtained this information from reliable sources who saw the justices inside presidential offices that day. He also told Emboffs that the presidency threatened to fire his brother who works there if he could not convince Poghosian to answer the summoning. Poghosian, who has been absent from the court's hearing of the complaint the last three days, and as a result cannot participate in the final decision, said illness prevented him from being present. But he confided that even if he were healthy, he would not appear at the hearings.

¶5. (S) When Poghosian said he raised the issue of presidential pressure with his justice colleagues, his concerns were "rejected." He also alleged that one of the judges, Justice Kim Balayan, has been co-opted by the authorities via the recent appointment of his son Tigran Balayan as the new spokesman at the Ministry of Foreign Affairs. (Note: The former spokesman, Vladimir Karapetian, was fired with five other diplomats in late February after publicly criticizing the authorities' handling of the election. End note.) Poghosian said his stance on the

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case, and absence from the hearing, could have personal consequences for him after the hearing, though he did not specify what those were. He confided, however, that he had "grounds to be scared." He also noted that if not for the pressure they were being subjected to, almost all of the justices would decide in LTP's favor.

"UNPREDICTABLE CONSEQUENCES" OF COURT DECISION

¶6. (S) Poghosian averred that the court's fixed decision could be "catalytic" in escalating existing tensions and fomenting new violence. He said "absolute tyranny" now prevailed in Armenia, where it was impossible to solve issues by legal means. He said the current "moral and psychological" atmosphere created by the ruling regime, in addition to the declaration of the state of emergency and its very harsh restrictions, placed the Constitutional Court under great pressure to hew the directives of the authorities.

¶7. (S) Poghosian said it was clear the authorities intended to resolve the situation in their favor by resorting to fear tactics and repression. As examples, he cited the authorities' violent dispersal of protesters on March 1 and fostering the bloodshed that ensued; the subsequent arrests and searches for protesters and LTP supporters; the illegal trials that have taken place afterwards (in apparent reference to the stripping of immunity of four members of parliament and the nature of the Constitutional Court case); and the president's vicious public attack on Armenia's Human Rights Defender (ombudsman) who issued a critical report of the authorities' mishandling of the weekend events. All of these events are designed to do one thing, Poghosian

contended, and that is to "strike fear" into genuine and would-be opponents of the regime. He said the President will brook no dissent, and sees people through the lens of either being "with or against" him.

18. (C) Despite the climate of fear the authorities seek to create, Poghossian said it was conceivable that LTP could attract hundreds of thousands of supporters in the street after the lifting of the state of emergency. In this case, Poghossian said he did not rule out a scenario where the authorities would extend, or reimpose emergency control if they felt their grip on power was being challenged. He also said the authorities were brazen enough to follow through on their threat to arrest LTP, even though they had no legal right to do so. But "they can do anything they want to" lamented Poghossian.

DON'T LET THE AUTHORITIES OFF THE HOOK -- DEMOCRACY AT STAKE

19. (S) Poghossian said he took great comfort from the post-election statements by the State Department that flagged problems with the presidential election. And he welcomed all of the strongly worded statements made by the international community following the violence over the weekend. But Poghossian warned that "all of these statements could be wasted" after the court's decision if the international community let the authorities off the hook. He gravely noted that recognition of the court decision as the final word on the election would legitimize the fraud undertaken by the regime. Even worse, Poghossian stated, was the irreversible damage that recognition, and bolstering the regime, could do to Armenia. He characterized the moment as a decisive one, where he said any fading hopes of democracy hung in the balance.

NOTHING RULED OUT

110. (S) During the meeting, Poghossian shared that at various points in the 1990s he headed the KGB and national police in Armenia. Emboffs proceeded to quiz him on post-violence reports of unreported dead, and allegations that army units from Nagorno-Karabakh were brought in to quell the violence. He said information made available to him "by virtue of who I used to be" suggests the reports are not entirely baseless.

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He said he had information that the death toll had been reduced by the authorities, and that some families had been forced to sign fabricated death certificates before they were allowed to recover relatives' remains. He said he ruled nothing out, given the nature of the regime.

COMMENT

111. (S) We have no way of confirming Justice Poghossian's allegations, but the fact that one of Armenia's highest-ranking public servants reached out the way he did is revealing in itself. Poghossian was appointed Justice during the LTP administration, and while he didn't hide his political sympathies, it's possible that recent political events have jaundiced his views. That said, his apprehension appeared bona fide, and Emboffs had the sense he was acting out of a feeling of patriotism for his country. END COMMENT.

BIOGRAPHICAL NOTE

112. (S) Valery Poghossian was born March 25, 1944 in Armenia, is married, has two children and is fluent in Armenian and

Russian. He was appointed to the Constitutional Court in 1996 during the presidential administration of Levon Ter-Petrossian, one of the first justices appointed to the court. From 1991-92, he was Minister of the Interior, and from 1992-93 Head of National Police (or National Security State Department). From 1993-1996 he was Advisor to the Chairman of the Supreme Council, which effectively meant he was second in command to Levon Ter-Petrossian in what is now the Armenian parliament, or National Assembly. He has a scientific training by background, having studied physics at Yerevan State University from 1961-66, and a Ph.D from the same institution in 1974. He is the author of five books on political science, democracy and law, human rights, and constitutional law. He currently also teaches political science at the prestigious Brusov Qnguage Institute in Yerevan where he told Emboffs he always begins his courses with a study of America's Declaration of Independence.

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